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(3)

No. 84-438.

In the

Supreme Court of the United States.

OCTOBER TERM, 1984.

SUPERINTENDENT, MASSACHUSETTS CORRECTIONAL INSTITUTION, WALPOLE,
PETITIONER,
v.
GERALD HILL AND JOSEPH CRAWFORD,
RESPONDENTS.

ON WRIT OF CERTIORARI TO THE SUPREME JUDICIAL COURT OF THE COMMONWEALTH OF MASSACHUSETTS.

Joint Appendix.

FRANCIS X. BELLOTTI,
Attorney General,

BARBARA A.H. SMITH,
Chief, Criminal
Appellate Division,
One Ashburton Place,
Boston, Massachusetts 02108.
(617) 727-2240
Counsel for Petitioner

JAMIE ANN SABINO,
KLIBANER & SABINO,
402 Washington Street,
Wellesley, Massachusetts 02181.
Counsel for Respondents

BATEMAN & SLADE, INC. BOSTON, MASSACHUSETTS

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Relevant Docket Entries.

NORFOLK COUNTY SUPERIOR COURT.
No. 136746.

1.	1982 Jun. 9	Action entered — Complaint Filed Complaint Ordered Filed without Fee, with Separate Docket Numbers for Each Plaintiff, Clerk to Make Service by Certified Mail-Copies to Attorney General (Dimond, J.) Dated June 8, 1982
2.	1982 Jun. 9	Certificate of Service
3.	1982 Aug. 5	Answer of Defendant
4.	1982 Dec. 28	Respondent's Return
5.	1982 Dec. 28	Defendant's Motion for Summary Judgment
6.	1982 Dec. 28	Defendant's Memorandum In Support of Motion for Summary Judgment
7.	1982 Dec. 28	Plaintiff's Pre-Trial Memorandum
8.	1982 Dec. 28	Plaintiff's Motion to have Witness Certified by the Court to Material Witness
9.	1983 Jan. 6	Affidavit of Arthur L. Isberg
	1983 Jan. 6	Re: Defendant's Motion for Summary Judgment-Continued to 1/13/83 for Submission on Briefs (Zobel, J.) (ns. 1/7/83)
10.	1983 Jan. 13	Supplemental Memorandum In Support of Defendant's Motion for Summary Judgment
11.	1983 Jan. 28	Memorandum and Order (Zobel, J.) (dated 1/25/83 (cs. 1/28/83)
	1983 Jun. 28	Re: Defendant's Motion for Summary Judgment-Denied-See Memorandum and Order of Zobel, J. dated 4/25/83 (Zobel, J.) (ns.)
12.	1983 Jan. 28	Summary Judgment (cs.)

13.	1983 Mar. 4	Defendant's Notice of Appeal Re: Order
14.	1983 Mar. 16	Defendant's Notice of Appeal from Final Judgment
15.	1983 Mar. 17	Notice of Service of Notice of Appeal (cs.) Mr. Joseph Crawford, Massachusetts Correctional Institution Box 100, South Walpole; The Honorable Hiller B. Zobel, Associate Justice of the Superior Court, Judges Lobby 1112 New Courthouse Building, Boston

A True Copy

Attest: _____
Deputy Assistant Clerk

Relevant Docket Entries.

NORFOLK COUNTY SUPERIOR COURT.
No. 136747.

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10.	1983 Jan. 28	Memorandum and Order (Zobel, J.) Dated 1/25/83 (cs. 1/28/83)
	1983 Jan. 28	Re: Defendant's Motion for Summary Judgment-Denied: See Memorandum of Zobel, J.) dated 1/25/83 (Zobel, J.) (cs. 1/28/83)
11.	1983 Jan. 28	Judgment-Summary (cs.)
12.	1983 Mar. 4	Defendant's Notice of Appeal from Order for Summary Judgment

13. 1983 Mar. 16 Defendant's Notice of Appeal from Final Judgment

14. 1983 Mar. 16 Notice of Service of Notice of Appeal (cs.) Mr. Gerald Hill, M.C.I. Walpole, Box 100, South Walpole, Mass., The Honorable Hiller B. Zobel, Associate Justice of the Superior Court, Judges Lobby, 1112 New Courthouse Building, Boston

A True Copy

Attest: /s/ Barbara N. Heuser
Deputy Assistant Clerk

Relevant Docket Entries.

APPEALS COURT NO. 83-414.

1 Apr 11, 1983:	Letter received from Martin E. Levin, Asst. Atty. Gen., re: "I hereby request that the entry fee . . be waived". Filed.
2 Apr 11, 1983:	Re: Paper #1-Fee Waived.
3 Apr 11, 1983:	Entered.
4 May 6, 1983:	Appellant's Motion For Enlargement Of Time To File Brief & Appendix Until June 20, 1983, With Certificate Of Service, filed.
- May 6, 1983:	Re: Paper #4-Allowed (By The Court). * Notice To Counsel.
5 May 18, 1983:	Appellant's Motion for Consolidation of Cases A.C. 83-414 with A.C. 83-528 with Attachment and Certificates of Service, filed.
- May 18, 1983:	Re: paper #5 - Allowed. Appeals are consolidated for the purposes of briefing and oral argument, (Warner, J.). * Notice to Counsel.
6 Jun 20, 1983:	Appellant's Certificate of Service, (Brief & Appendix), filed.
7 Jul 11, 1983:	Plaintiff-Appellee's (Joseph Crawford), Motion for Enlargement of Time for Filing Brief to Aug. 9, 1983, with Certificate of Service & Notice of Hearing, filed.
- Jul 11, 1983:	Re: Paper #7-Allowed; By the Court. *Notice to Counsel.
8 Aug 9, 1983:	Plaintiff/Appellee's Motion For Enlargement Of Time For Filing Brief To Aug 17, 1983, With Affidavit & Certificate Of Service, filed.

- Aug 10, 1983:	Re: Paper #8 - Allowed: provided that the brief and appendix are filed no later than August 17, 1983. (Brown, J.). *Notice To Counsel.
9 Aug 22, 1983:	Plaintiff-Appellee's Certificate of Service, (Brief) filed.
10 Sep 22, 1983:	Motion to accept Brief on Behalf of Gerald Hill (Plaintiff-Appellee) or Appointment of Attorney, with Certificate of Service, filed.
- Sep 30, 1983:	Re: Paper #10 - The cases are so similar that the plaintiff Hill will have his case adequately represented by the brief filed by the plaintiff Crawford. The motion is allowed to the extent that the Crawford brief will be considered in Hill's case. (Armstrong, J.). *Notice To Counsel.
11 Oct 5, 1983:	Letter Dated 10/5/83 Addressed to F.J.S., Asst. Clerk from A.A.G. Martin E. Levin re: . . . "I respectfully request that the argument be rescheduled.", filed.
- Oct. 5, 1983:	Re: Paper #11 - Motion allowed. (Hale, C.J.). *Notice to Counsel.
- Oct 11, 1983:	ORDER . . . of S.J.C. Transferring Case Sua Sponte, filed. *Notice to Counsel.

Relevant Docket Entries.

APPEALS COURT NO. 83-528.

1	May 10, 1983:	Letter addressed to John E. Powers, Clerk from Asst. Atty. Gen'l., Martin E. Levin re: "Pursuant to M.R.A.P. 10(a) and M.G.L.C.262 §4, I hereby request that this appeal be docketed without payment of fee." Filed.
-	May 10, 1983:	Fee waived.
2	May 10, 1983:	Entered.
3	May 18, 1983:	Appellant's Motion for Consolidation of Cases A.C. 83-414 with A.C. 83-528 with Attachment and Certificates of Service, filed.
-	May 18, 1983:	Re: paper #3 - Allowed. Appeals are consolidated for the purposes of briefing and oral argument, (Warner, J.). * Notice to Counsel.
		SEE A.C. 83-414 FOR FURTHER DOCKET ENTRIES

Relevant Docket Entries.

SUPREME JUDICIAL COURT NO. 3330.

Motions Allowed by A.C.:	(1) Defendant/appellant's Motion for Consolidation of Cases. (2) Motion to accept Brief on Behalf of Gerald Hill - Allowed to the extent that the Crawford Brief will be considered in Hill's case.
10/13/83	Entered.
4-17-84	WAIVER of 130-Day Rule.
6/19/84	Judgments affirmed. Rescript June 19, 1984. Reasons as on file. Notice to counsel.
7/11/84	Defendant's Motion to Stay Rescript. Circulated to quorum.
7/24/84	Motion to Stay Rescript ALLOWED.
10-2-84.	NOTICE FROM SUPREME COURT OF THE UNITED STATES (dated 9-17-84) of the filing of a petition for certiorari.
11-15-84.	Order of the Supreme Court of the United States granting petition for writ of certiorari dated 11-13-84.

11/27/84

A true copy.

Attest: /s/ Jean M. Kennett
Clerk
Supreme Judicial Court for
the Commonwealth

COMMONWEALTH OF MASSACHUSETTS.

NORFOLK, SS.	SUPERIOR COURT CIVIL SESSION NO. 136746 [136747]
JOSEPH CRAWFORD GERALD HILL -VERSUS- JOSEPH PONTE	6/8/82 complaint ordered filed without fee with separate docket numbers for each plaintiff. Clerk to make service by certified mail. Copies to A.G. (Dimond, J.) att. R. Moscow, asst. clerk.

WRIT OF HABEAS CORPUS AND TESTIFICANDUM,
R E L E A S E , F O R T H W I T H -

Now comes the petitioners Joseph Crawford and Gerald Hill, in the above entitled caption and respectfuul invoke the Jurisdiction of this Court pursuant to G.L. Ch. 248 § 1 et seq.

F A C T S:

1. Each of the petitioners apear before the Disciplinary Board (henceforth D-Board) on or about May 12, 1982 and said Board violated each of the petitioners Constitutional Rights;

2. There was no direct evidence or indirect evidence to link either of the petitioners to the alleded assault upon one Peter Stephs, in fact the holding authorities had affidavits in their possession staking that each of the petitioners was not a person that might assault him;

3. The petitioner Hill requested that he be allowed to call a witness that would testify to the fact that he'd seen Stephs slip on the stairs, this witness was denied to the plaintiff and there was no just cause for said witness to be denied to the petitioner;

4. During the course of the hearing no evidence was given to the Board that either of the petitioners placed their hands on the alleded victim, nor was there any tangible evidence presented to the Board to connect either of the petitioners with an alleded assault that was supposed to of taken plade;

5. Each of the petitioners Constitutional Rights were violated in as much as an impartial hearing Body is concerned, none of the members of the Board were presented with evidence to connect either of the petitioners with an assualt nor are the Board members capable of stating that an assault took place, the Boards entire decision is based on something that the reporting officer can't even say took place;

MEMORANDUM OF LAW IN SUPPORT OF RELEASE:

It is fundamental to any fair hearing procedures that accused be judged by an impartial hearing body, for without the presence of impartial decision makers, fair procedures are meaningless. The Wolff court recognized that hearing bodies must not be so bias that their decisions are reached in an arbitrary manner. Ruiz v. Estelle, 503 F.Supp. 1265, 1355. In the instant case the decision of the Board is both arbitrary and capricious; there was no evidence to confirm that the incident took place nor was there any evidence to state that if the incident did take place the petitioners were involved. For years it has been settle law that: Mere presence does not establish guilt.

The witness was/were no threat to the security of the institution and were upstairs waiting to come to the Board, they did not come to the Board on their own accord due to the Rules and regulations, which in essence state that a man must have a pass. Yet, it was stated that these witnesses testimony was not needed, this testimony could of proven that each of the petitioners did not assault any one. In essence the board stated that they were going to find the petitioners guilty irregardless of

the petitioners clear innocence. The petitioners had a qualified procedural due process right to call witnesses in their defense at these disciplinary hearings. See: Ward v. Johnson, 667 F.2d 1126 at 1130.

Courts have also stated that the procedural protections depend upon the results of the Disciplinary ticket; in the instant case each of the petitioners were given 15 days isolation, it was also recommended that they lose 100 days good time and that they be locked up in Administrative segragation. Thus, due to the severity of the sanction the Board was required to call the witnesses in order that the hearing appear fair. Based upon the preponderance of the evidence that the Board must adjudge only clear innocence.

PRAYERS FOR RELIEF:

1. That this Court Temporially, Preliminarilly and Perminently enjoin the defendant from imposing any Isolation upon the petitioners until this matter has been fully heard.

2. After a full hearing upon this matter upon the merits, Rule that the petitioners were convicted by the D-Board in violation of the rules and regulations that govern said Board and order the matters expunged from any and all institutional folders/records kept on the petitioners.

By

/s/ Joseph Crawford
Joseph Crawford

/s/ Gerald Hill
Gerald Hill

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

NO. 136746

JOSEPH CRAWFORD,
Petitioner
V.
JOSEPH PONTE, Superintendent,
M.C.I., Walpole,
Respondent

ANSWER

Now comes the respondent and answers the petition in the above-entitled action as follows:

1. He denies the allegations of paragraph one and avers that on May 11, 1982, petitioner received a Disciplinary Hearing regarding Disciplinary Report No. 82-1372.
2. He denies the allegations of paragraph two.
3. He denies the allegations of paragraph three, except that he admits that Gerald Hill requested that inmate Herbert Jones be called on Hill's behalf, which request was denied.
4. He denies the allegations of paragraph four.
5. He denies the allegations of paragraph five.

AFFIRMATIVE DEFENSE

6. Further answering, respondent states that Disciplinary Report No. 82-1372 reports that Sergeant Maguire found one P. Stephens (sic), an inmate at M.C.I.-Walpole, suffering from signs of a scuffle in the West Wing Yard, and that petitioner was one of only three other inmates

observed at the scene of the assault, and that these three inmates were jogging together away from the scene.

7. Sergeant Maguire testified at petitioner's hearing regarding his observations at the scene of the assault of Peter Stephens.

8. Petitioner received all process due him under the United States Constitution.

Respectfully submitted,

FRANCIS X. BELLOTTI
ATTORNEY GENERAL

by, /s/_____

MARTIN E. LEVIN
Assistant Attorney General
One Ashburton Place
Boston, Massachusetts 02108
Tel: 727-2240

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

NO. 136747

GERALD HILL,
Petitioner
V.
JOSEPH PONTE, Superintendent,
M.C.I., Walpole,
Respondent

ANSWER

Now comes the respondent and answers the petition in the above-entitled action as follows:

1. He denies the allegations of paragraph one and avers that on May 11, 1982, petitioner received a Disciplinary Hearing regarding Disciplinary Report No. 82-1371.
2. He denies the allegations of paragraph two except that he admits that an affidavit made by Peter Stephens and entered by Gerald Hill stated that "Gerald Hill had nothing to do with my present injuries."
3. He denies the allegations of paragraph three, except that he admits that Gerald Hill requested that inmate Herbert Jones be called on Hill's behalf, which request was denied.
4. He denies the allegations of paragraph four.
5. He denies the allegations of paragraph five.

AFFIRMATIVE DEFENSE

6. Further answering, respondent states that Disciplinary Report No. 82-1371 reports that Sergeant Maguire

found one P. Stephens (sic), an inmate at M.C.I.-Walpole, suffering from signs of a scuffle in the West Wing Yard, and that petitioner was one of only three other inmates observed at the scene of the assault, and that these three inmates were jogging together away from the scene.

7. Petitioner Hill stated at his hearing that inmate Herbert Jones would, if called, testify that Hill and Jones had gone to and returned from the yard together.

8. The Disciplinary Board stated in the Disciplinary Hearing record that Jones' testimony was not necessary.

9. Sergeant Maguire testified at petitioner's hearing regarding his observations at the scene of the assault of Peter Stephens.

10. Petitioner received all process due him under the United States Constitution.

Respectfully submitted,

FRANCIS X. BELLOTTI
ATTORNEY GENERAL

By, /s/ _____

MARTIN E. LEVIN
Assistant Attorney General
One Ashburton Place
Boston, Massachusetts 02108
Tel. 727-2240

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

SUPERIOR COURT
CIVIL NO. 136747

GERALD HILL,
Petitioner,
V.
JOSEPH PONTE, Superintendent,
M.C.I., Walpole,
Respondent.

RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

Now comes the respondent and moves for summary judgment denying the petition.

Respectfully submitted,

FRANCIS X. BELLOTTI
ATTORNEY GENERAL

By, /s/ _____

Martin E. Levin
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2240

Dated: December 24, 1982

MASSACHUSETTS DEPARTMENT OF CORRECTION

DISCIPLINARY REPORT

DATE 5-2-1982 INSTITUTION WALPOLES

INMATE Gerald Hill NO. W36748 HOUSING UNIT EII

OFFENSE (18) (19) (31) D-REPORT NO. 82-1371

FIGHTING/THREATENING LANGUAGE OR JESTURE/ AIDING ANOTHER PERSON TO COMMITT ANY OFFENCE

MINOR ☐ MAJOR ☒ REFERRED TO DISTRICT ATTORNEY ☐

DESCRIPTION OF OFFENSE

ON THE ABOVE DATE AT APPROXIMATELY AT 8:45 AM WHILE ON DUTY AT THE WEST WING YARD GATE I (SGT. MAGUIRE) HEARD AN INMATE LOUDLY SAY "WHAT'S GOING ON?" (THE SOLID DOOR TO THE YARD WAS CLOSED AT THIS TIME) I THEN STARTED TO WATCH (FROM THE CORRIDOR) THROUGH THE SMALL WINDOW AND OUT TO THE MINIMUM WALKWAY.

AT THIS POINT I HEARD THE SAME VOICE SAY LOUDER "WHAT'S GOING ON!!?" AND AT APPX. THE SAME TIME I DID OBSREVE (THROUGH THE WINDOW) SOME COMMOTION CLOSE TO THE OTHER SIDE OF THE DOOR. I QUICKLY WENT DOWN THE STAIRS AND OPNED THE DOOR AND FOUND INMATE P. STEVENS BLEEDING FROM THE MOUTH, HIS EYE PUFFED OUT AND OTHER SIGNS OF A SCUFFLE (DIRT ASTREWN IN THE SAME AREA).

AT THE SAME TIME I OBSERVED 3 INMATES JOGGING AWAY TOGETHER DOWN THE WALKWAY; THEY WERE THE ONLY 3

INMATES WITHIN THE CHAIN-LINK FENCE AREA OF THE WALKWAY. INMATE G. HILL WAS ONE OF THESE INMATES. IT WAS EVIDENT THAT ONE OR MORE OF THESE INMATES DID ASSAULT INMATE STEVENS AND APPARENTLY ACTED AS A GROUP AS THEY WERE ALL JOGGING AWAY FROM THE SCENE TOGETHER.

REPORTING OFFICER
SIGNATURE /s/ Sgt. Peter Maguire TITLE Sgt. West Wing

SHIFT COMMANDER'S SIGNATURE /s/ E. Moreau/Captain

DISCIPLINARY OFFICER'S SIGNATURE /s/ Curtis

FINDING AND SANCTION, IF ANY _____
(transcribed from disciplinary hearing if major matter)
RESULTS OF APPEAL _____

MASSACHUSETTS DEPARTMENT OF CORRECTION

DISCIPLINARY HEARING

DATE OF HEARING 5/11 INSTITUTION Walpole

INMATE Hill, G. No. _____

OFFENSE #18, #19, #31 D-REPORT NO. 82-1371

The inmate has been advised of his right to remain silent since the offense charged has been or may be referred to the district attorney. ☐

The following is a summary of the credible evidence presented to the disciplinary board:

Plea/ not guilty

he knows nothing about it. Entered affidavit.

Sgt. Maguire, states he heard a commotion. He never saw an assault. Stevens had been beaten. He saw three inmates jogging away from the area. They were the only one's in the area. He asked a medic his opinion how the injury Steven's recieved. Medic states he was beaten. AA since May 2.

Request for H. Jones. Denied not necessary.

Finding: Guilty

Combine charges.

Sanction and Recommendations: 15 days iso. 100 LGT. DSU.

Reasons for Sanction and Recommendation: report testimony considered, the R/0 testimony and observations show an assault occurred. His observation of the inmate in the area indicates clear guilt. Assaults of any person is serious, thus the sanction.

The inmate has been advised of the finding, sanction and recommendations of the Board: ☒

The inmate has been advised of his right to appeal this decision within five (5) days. ☒

/s/ Isberg	/s/ Anna C. Walsh	/s/ LaPierre
(CHAIRMAN)	(MEMBER)	(MEMBER)

A copy of this document has been delivered to the inmate. ☒

Officer's Signature /s/ Isberg Date 5/11

From Peter Stephens
Bris one

To I.P.S. Investigation Team

Re Statement to Alledge inscident

The following statement I make under pains and penalties of perjury.

I so State these facts that Gerald Hill had nothing to do with my present injuries.

/s/ Peter Stephens
Respectfully
Mr. Peter Stephens
Bris one
M.C.I. Walpole MA.

Massachusetts Correctional Institution, Walpole

APPEAL FORM

Inmate's Name GERALD HILL No. W-36748
Report No. 82-1371

a. (Minor) If you wish to appeal the Disciplinary Officer's disposition of this case you may request the Disciplinary Board to review his findings. Such appeal must be made to the Disciplinary Officer, in writing, within 24 hours of the hearing. The Disciplinary Board will schedule a hearing within five days.

b. (Major) If you wish to appeal the Disciplinary Board's disposition of this case you may request the Superintendent to review the Board's findings. Such appeal must be made to the Deputy, in writing, within 5 days of the board hearing.

c. The Commissioner of Correction reviews all cases involving loss of good time.

(Use space below for your written appeal. Use extra sheets of paper if needed.)

MY APPEAL IS ATTACHED TO THIS FORM.
THANK YOU.

• • • • • •

RESULT OF REVIEW

After reviewing your case involving Disciplinary Report(s) #
Appeal Denied J. Ponte 5-20-82

Members of the Disciplinary Board

_____ _____ _____

_____

Superintendent

Notice delivered by: _____ Date: _____

TO: Mr. Joseph Ponte, Superintendent
FR: Mr. Gerald Hill, Essex II, #39.
RE: APPEAL OF DISCIPLINARY BOARD'S DECISION(S)

May 15, 1982

Dear Superintendent Ponte:

My reasons for appealing the findings and sanctions of the D-Board will be short.

Sir, the Reporting Officer's D-Report in no way supports any finding of guilt on my part to any assault on inmate Stephens.

It was not until I came in from the yard that Mr. Maguire told me I was being placed in A.A.; this was around 11:00 A.M., several hours after the so-called assault on inmate Stephens.

At the D-Hearing, Officer Maguire stated that he did not see anything, nor did he see me strike or throw any punches at inmate Stephens. I requested that this Medic be allowed to testify at the D-Hearing or an offer of proof be presented to corroborate Mr. Maguire's statements concerning what the Medic told him. This was denied me as not necessary.

When I asked Mr. Maguire how/why he felt I may have been one of the guys he stated: "Because you three guys are always together. I asked him if he seen my face, he said no; what was I wearing, he said inmate clothing but could not describe them at the Hearing.

Sir, the only eye witness I requested was inmate Herbert Jones. The offer of proof he would of presented is that he and I went to the yard together and came in together. But this request was denied also as not necessary. I also introduced an Affidavit from inmate Stephens stating that I did not have anything to do with assaulting him physically or verbally.

I am respectfully asking that you Dismiss the charges as the Reporting Officer did not prove his report by the preponderancy of the evidence needed for the D-Board to reach the conclusion they did in this case.

Thank you very much for taking the time in reading this appeal and understanding my position.

Sincerely,
/s/ Gerald Hill

COMMONWEALTH OF MASSACHUSETTS
NORFOLK, SS. SUPERIOR COURT
CIVIL NO. 136746

JOSEPH CRAWFORD,
Petitioner, RESPONDENT'S MOTION FOR
V. SUMMARY JUDGMENT
JOSEPH PONTE, Superintendent,
M.C.I., Walpole,
Respondent.

Now comes the respondent and moves that summary judgment be granted denying the petition.

Respectfully submitted,

FRANCIS X. BELLOTTI
ATTORNEY GENERAL

By, /s/_____

Martin E. Levin
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2240

Dated: December 27, 1982

MASSACHUSETTS DEPARTMENT OF CORRECTION

DISCIPLINARY REPORT

DATE 5-2-1982 INSTITUTION WALPOLES

INMATE Joseph Crawford NO. W37691
HOUSING UNIT EIII#19

OFFENSE (18) (19) (31) D-REPORT NO. 82-1372

FIGHTING/THREATENING LANGUAGE OR JESTURE/ AIDING ANOTHER PERSON TO COMMITT ANY OFFENCE

MINOR ☐ MAJOR ☒ REFERRED TO DISTRICT ATTORNEY ☐

DESCRIPTION OF OFFENSE

ON THE ABOVE DATE AT APPROXIMATELY AT 8:45 AM WHILE ON DUTY AT THE WEST WING YARD GATE I (SGT. MAGUIRE) HEARD AN INMATE LOUDLY SAY "WHAT'S GOING ON?" (THE SOLID DOOR TO THE YARD WAS CLOSED AT THIS TIME) I THEN STARTED TO WATCH (FROM THE CORRIDOR) THROUGH THE SMALL WINDOW AND OUT TO THE MINIMUM WALKWAY.

AT THIS POINT I HEARD THE SAME VOICE SAY LOUDER "WHAT'S GOING ON!!?" AND AT APPX. THE SAME TIME I DID OBSREVE (THROUGH THE WINDOW) SOME COMMOTION CLOSE TO THE OTHER SIDE OF THE DOOR. I QUICKLY WENT DOWN THE STAIRS AND OPNED THE DOOR AND FOUND INMATE P. STEVENS BLEEDING FROM THE MOUTH, HIS EYE PUFFED OUT AND OTHER SIGNS OF A SCUFFLE (DIRT ASTREWN IN THE SAME AREA).

AT THE SAME TIME I OBSERVED 3 INMATES JOGGING AWAY TOGETHER DOWN THE WALKWAY; THEY WERE THE ONLY 3

INMATES WITHIN THE CHAIN-LINK FENCE AREA OF THE WALKWAY. INMATE J. CRAWFORD WAS ONE OF THESE INMATES. IT WAS EVIDENT THAT ONE OR MORE OF THESE INMATES DID ASSAULT INMATE STEVENS AND APPARENTLY ACTED AS A GROUP AS THEY WERE ALL JOGGING AWAY FROM THE SCENE TOGETHER.

REPORTING OFFICER
SIGNATURE /s/ Sgt. Peter Maguire TITLE Sgt. West Wing

SHIFT COMMANDER'S SIGNATURE /s/ E. Moreau/Captain

DISCIPLINARY OFFICER'S SIGNATURE /s/ Curtis

FINDING AND SANCTION, IF ANY _____
(transcribed from disciplinary hearing if major matter)
RESULTS OF APPEAL _____

MASSACHUSETTS DEPARTMENT OF CORRECTION

DISCIPLINARY HEARING

DATE OF HEARING 5/11 INSTITUTION Walpole

INMATE Crawford, J. No. _____

OFFENSE #18, #19, #31 D-REPORT NO. 83-1372

The inmate has been advised of his right to remain silent since the offense charged has been or may be referred to the district attorney. ☐

The following is a summary of the credible evidence presented to the disciplinary board:

Plea/ not guilty

he does not know what happened

Stevens wrote an affidavit stating his innocence. His body was checked for signs of a scuffle, nothing was found.

Sgt. Maguire, he heard a commotion, he checked. Stevens was picking himself off the ground, bleeding and hurt. He saw 3 inmates jogging away, among them Crawford. They were the only 3 inmates in the area.

Finding: Guilty

Combine charges.

Sanction and Recommendations: 15 days iso. 100 LGT. DSU.

Reasons for Sanction and Recommendation: report and testimony considered, the R/0 testimony and observations show an assault occurred, his observation of inmate in the area indicates clear guilt. Assaults of any person is serious, thus the sanction.

The inmate has been advised of the finding, sanction and recommendations of the Board ☒

The inmate has been advised of his right to appeal this decision within five (5) days. ☒

/s/ Isberg	/s/ Anna C. Walsh	/s/ LaPierre
(CHAIRMAN)	(MEMBER)	(MEMBER)

A copy of this document has been delivered to the inmate. ☒

Officer's Signature /s/ Isberg Date 5/11

Massachusetts Correctional Institution, Walpole

APPEAL FORM

Inmate's Name JOSEPH CRAWFORD No. W-37691
Report No. 82-1372

a. (Minor) If you wish to appeal the Disciplinary Officer's disposition of this case you may request the Disciplinary Board to review his findings. Such appeal must be made to the Disciplinary Officer, in writing, within 24 hours of the hearing. The Disciplinary Board will schedule a hearing within five days.

b. (Major) If you wish to appeal the Disciplinary Board's disposition of this case you may request the Superintendent to review the Board's findings. Such appeal must be made to the Deputy, in writing, within 5 days of the board hearing.

c. The Commissioner of Correction reviews all cases involving loss of good time.

(Use space below for your written appeal. Use extra sheets of paper if needed.)

MY APPEAL IS ATTACHED TO THIS FORM.
THANK YOU.

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RESULT OF REVIEW

After reviewing your case involving Disciplinary Report(s) #
Appeal Denied J. Ponte 5-20-82

Members of the Disciplinary Board

_____ _____ _____

_____

Superintendent

Notice delivered by: _____ Date: _____

APPEAL

RE: DISCIPLINARY HEARING HELD ON MAY 11, 1982.

May 16, 1982

Dear Superintendent Ponte:

On May 11, 1982, I was seen by the Disciplinary Board and found guilty of the following charges: Fighting, offense number 18; Threatening language or jesture, offense number 19; and, Aiding another person to commit any offense, offense number 31. I am appealing to you as I believe you will render me proper justice.

At the D-Hearing, nothing was presented by the Reporting Officer -Mr. Maguire- that anyone on the D-Board could draw any conclusion of a preponderance of the evidence that I committed any infractions against the Rules and Regs.

Mr. Maguire himself stated that he called me back along with another inmate and then told me I could leave and go back out to the yard, after I informed him I didn't know what he was talking about . . . concerning a fight with inmate Stephens.

I was called some time later to report to Control. When I came in from the yard, I was taken into the Hospital for a physical check to see if I had any blood/or other evidence that I was involved in any kind of altercations with inmate Stephens . . . I was not. Officer Maguire then told me that I was being placed in A.A. Status to seen by the I.P.S.

Mr. Ponte, I am asking that you rescind the findings and sanctions of the D-Board as they had no evidence to support their conclusion. As a matter of fact they did not in any way exercise the powers invested in them in that they could have called inmate Stephens to the D-Board, or spoken with him out of my presence. I know personally that inmate Stephens would have corroborated that I did not at any time assault him. I presented an Affidavit in support of this from inmate Stephens.

I wish to thank you for taking the time in reading this appeal and seek your full understanding; again, thank you.

Yours truly,

/s/ Joseph C. Crawford

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

SUPERIOR COURT
CIVIL NO. 136746

JOSEPH CRAWFORD,
Plaintiff
V.
JOSEPH PONTE, Superintendent,
M.C.I., Walpole,
Defendant

AFFIDAVIT

I, Arthur L. Isberg, being duly sworn do hereby depose and say the following:

1. I served as Disciplinary Chairman at inmate Joseph Crawford's disciplinary hearing regarding Disciplinary Report (D-Report) #82-1372, at M.C.I., Walpole.

2. D-Report #82-1372 charged that Joseph Crawford and two other inmates had assaulted inmate Peter Stevens.

3. During his hearing, Mr. Crawford stated that he had an affidavit from Peter Stevens exonerating Crawford, but Mr. Crawford did not introduce that affidavit into evidence.

4. Joseph Crawford did not request any witnesses at his hearing.

5. The disciplinary board found that Joseph Crawford, along with the two other charged inmates, had assaulted Peter Stevens.

Signed under the pains and penalties of perjury this 5 day of January, 1983.

/s/_____
ARTHUR L. ISBERG

/s/ Mary H. Schmitt
NOTARY PUBLIC
My Commissioner Expires:
10/28/88

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

SUPERIOR COURT
CIVIL NO. 136747

GERALD HILL,
Plaintiff
V.
JOSEPH PONTE, Superintendent,
M.C.I., Walpole,
Defendant

AFFIDAVIT

I, Arthur L. Isberg, being duly sworn do hereby depose and say the following:

1. I served as Disciplinary Chairman at inmate Gerald Hill's disciplinary hearing regarding Disciplinary Report (D-Report) #82-1371, at M.C.I., Walpole.

2. D-Report #82-1371 charged that Gerald Hill and two other inmates had assaulted inmate Peter Stevens.

3. Mr. Hill requested inmate Herbert Jones as a witness.

4. The Reporting Officer, Sergeant Maguire, had already stated that he had seen three inmates in the area of the assault on Stevens, and Herbert Jones was not identified as one of those inmates.

5. The disciplinary board denied Mr. Hill's request for Herbert Jones on the ground that Jones was not necessary for the purpose of the hearing.

6. The disciplinary board found that Gerald Hill, along with the two other charged inmates, had assaulted Peter Stevens.

Signed under the pains and penalties of perjury this 5 day of January, 1983.

/s/ _____
ARTHUR L. ISBERG
/s/ Mary H. Schmitt
NOTARY PUBLIC
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

SUPERIOR COURT
CIVIL ACTION
NO. 136746 [136747]

JOSEPH CRAWFORD,
[GERALD HILL]
. . . . . *Plaintiff(s)*

v.

JOSEPH PONTE
. . . . . *Defendant(s)*

JUDGMENT
(SUMMARY)
(PURSUANT TO MASS. R. CIV. P. 56)

This action came on to be heard before the Court, Zobel J. presiding, upon motion of the defendant Joseph Ponte for summary judgment pursuant to Mass. R. Civ. P. 56 - the parties having been heard-and the Court having considered the *pleadings- and affidavits. DENIES said motion and orders judgment to enter it is ORDERED and ADJUDGED that:

The findings of the Disciplinary Board dated May 11, 1982, are voided, and all sanctions imposed pursuant thereto nullified; plaintiff is to be recredited forthwith with the 100 days' good time deducted pursuant to the said Board's Findings.

Dated at Dedham, Massachusetts, this 28th day of January 1983.

FORM OF JUDGMENT APPROVED Nicholas Barbadoro Clerk

..... By: /s/.....

Associate Justice of the Superior Court Assistant Clerk

*Strike out inapplicable words.

A True Copy Attest /s/Marie L. Crowley
Deputy Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS SUPERIOR COURT
CIVIL NO. 136746 [136747]

JOSEPH CRAWFORD,
[GERALD HILL]
Plaintiff,

V. NOTICE OF APPEAL

JOSEPH PONTE, Superintendent,
M.C.I., Walpole,
Defendant.

Notice is hereby given that Joseph Ponte, the above-named defendant, appeals from the final judgment entered in this action on January 28, 1983.

Respectfully submitted,

FRANCIS X. BELLOTTI
ATTORNEY GENERAL

By, /s/_____

Martin E. Levin
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2240

Dated: March 15, 1983